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DEC 06 2005

OFFICE OF PETITIONS

In re Application of
Hiroiyuki Mori
Application No. 10/670,224
Filed: September 26, 2003
Attorney Docket No. 030712-12

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DECISION ON PETITION

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEM", filed October 6, 2005, which is being treated as a petition under 37 C.F.R. § 1.53 to accord the above-identified application a filing date of September 26, 2003, with Figure 5 of the drawings as part of the original disclosure.

The petition is GRANTED.

Application papers in the above-identified application were filed on September 26, 2003. However, on August 9, 2005, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application". Applicant was notified that the application papers had been accorded a filing date; however, Figure 5 of the drawings appeared to have been omitted.

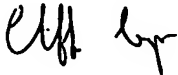
In response, applicants filed the instant petition. Accompanying the petition was a copy of Figure 5. Applicant maintains that the application as originally filed this drawing figure. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Three (3) Sheet of Drawing (Figs. 1-5)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of September 26, 2003, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the \$130 petition fee has been refunded to Deposit Account No. 19-2380.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of September 26, 2003, using the application papers received in the Office on that date and Figure 5 of the drawings as resupplied on petition filed October 6, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions